

EXHIBIT E
10/5/12 PARKS DECLARATION
CASE NO. 12-4175-WHP

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SPANSKI ENTERPRISES, INC.)	
and EUROVU, S.A.,)	
Plaintiffs,)	Case No.
vs.)	12 CV 4175 (WHP)
INTERCOM VENTURES, LLC,)	ECF CASE
INTERCOM POLAND, LLC, TONY)	
HOTI AND DYLAN BATES,)	
Defendants.)	

Deposition of DYLAN PAUL BATES,

Chicago, Illinois

September 5, 2012

12:23 P.M.

Reported By:

Elia E. Carrion

Ref: 8148

September 5, 2012

12:23 P.M.

The deposition of DYLAN PAUL BATES,
called as a witness herein for examination, taken
pursuant to the Federal Rules of Civil Procedure of
the United States District Courts pertaining to the
taking of depositions, taken before ELIA E. CARRIÓN,
CSR No. 084.004641, a Certified Shorthand Reporter
of said state, taken at Suite 2300, 321 North Clark
Street, Chicago, Illinois, on the 5th day of
September, 2012, at 12:23 P.M.

1 APPEARANCES:

2
3 LOEB & LOEB LLP,
4 345 Park Avenue,
5 New York, New York 10154

6 Tel: 212.407.4161

7 Fax: 212.658.9105

8 jzavin@loeb.com

9 By: MR. JONATHAN ZAVIN, ESQ.

10 appeared on behalf of the Plaintiffs;

11
12 RICHARD E. STECK and ASSOCIATES,
13 19 South LaSalle Street, Suite 1500
14 Chicago, Illinois 60603

15 Tel: 312.236.4200

16 Fax: 312.896.5927

17 airsteck@usa.net

18 By: MR. RICHARD E. STECK, ESQ.

19 appeared on behalf of Defendants

20 Intercom Ventures, LLC;

21 Intercom Poland, LLC; and Tony Hoti;

1 APPEARANCES (Continued):

3 LEYDIG, VOIT & MAYER, LTD., P.C.,

4 Two Prudential Plaza, Suite 4900

5 180 North Stetson Avenue

6 Chicago, Illinois 60601-6731

7 Tel: 312.616.5669

8 Fax: 312.616.5700

9 kparks@leydig.com

10 By: MR. KEVIN C. PARKS, ESQ.

11 appeared on behalf of Defendant

12 Dylan Bates.

(WHEREUPON, the witness was duly sworn.)

DYLAN PAUL BATES,

called as a witness, having been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. ZAVIN:

Q. Mr. Bates, my name is Jonathan Zavín. I'm a partner at the firm of Loeb & Loeb, and I represent the two plaintiffs in an action which is entitled Spanski Enterprises, Inc. and EuroVu, S.A. against four defendants: Intercom Ventures, LLC; Intercom Poland, LLC; Tony Hoti; and yourself, Dylan Bates.

This is your deposition under oath in that litigation. This is your sworn testimony. It can be used in the litigation for many purposes; almost any purpose, as your attorney will undoubtedly advise you. The purpose of this deposition is for me to ask questions and you to answer them.

If at any time you don't understand a question that I ask, please let me know. My object here is not to create confusion. So if you don't

1 objection.

2 MR. ZAVIN: What is objectionable about the
3 form?

4 MR. PARKS: This continues a litany of similar
5 questions that suggests answers and constitute your
6 attempt to testify on behalf of this witness. It
7 has continued for some time. It's continuing now.

8 MR. ZAVIN: Are you suggesting --

9 MR. PARKS: I don't like the form of the
10 question and, therefore, I object to it.

11 BY MR. ZAVIN:

12 Q. Okay. Mr. Bates, do you have any reason
13 to think you didn't receive this e-mail?

14 A. I think that was asked the exact same
15 way. But I have no recollection, as I stated
16 before. Hundreds of e-mails a day. Open some,
17 don't open others. And I tend to cherry-pick people
18 that are important to me and ventures that are
19 viable. So chances are, even though I don't recall,
20 who knows?

21 Q. Were there negotiations ongoing with TVN
22 in the late winter or early spring of 2012?

23 A. Great question. And thank you for asking
24 it. Which TVN is obviously -- was an important

1 piece of the puzzle. As evidenced by the e-mail
2 chain, I was never involved. There were meetings
3 that occurred. I was never there.

4 As I stated earlier in my testimony, I
5 haven't been in the office in over a year. So if
6 there were negotiations going on, I was peripherally
7 notified, in passing, whether it be via an e-mail
8 like this that I may or may not have read or in a
9 once every couple, three months meeting as I
10 testified to, that I probably met with Nunzio a
11 handful of times.

12 So thank you for demonstrating the fact
13 that this is a major opportunity, as Tony describes,
14 but I had nothing to do with.

15 BY MR. ZAVIN:

16 Q. Now I'll ask the question again.

17 Were there negotiations ongoing with TVN
18 in late spring or early winter -- late winter or
19 early spring of 2012?

20 A. It appears so.

21 Q. What is TVN?

22 A. What is TVN?

23 Q. Yeah.

24 A. It's a content.

1 A. Well, I think it's important to know.

2 MR. PARKS: Dylan --

3 BY MR. ZAVIN:

4 Q. Mr. Bates, would it make a difference as
5 to whether -- how it was sent, whether you knew
6 about it?

7 MR. PARKS: I object to the form of that
8 question.

9 Wait, let -- Mr. Bates, let Mr. Zavin pose the
10 question.

11 THE WITNESS: All right. I'll stop being an
12 attorney.

13 BY MR. ZAVIN:

14 Q. Well, let's follow up on that, Mr. Bates.
15 If it was e-mailed, would it make a difference
16 whether you knew about it?

17 A. Not necessarily. That's not where I was
18 going with that.

19 MR. STECK: That's interesting, but that's not
20 the question. But obviously, the forms of delivery
21 differ in the time they get places.

22 THE WITNESS: That was the context.

23 BY MR. ZAVIN:

24 Q. Did you ever know about that letter?

1 A. I have no idea, as I've testified.

2 MR. ZAVIN: Okay. Let's mark this as
3 Exhibit 33.

4 (WHEREUPON, a certain document was
5 marked Plaintiffs' Deposition
6 Exhibit No. 33, for identification,
7 as of September 5, 2012.)

8 (WHEREUPON, the document was
9 tendered to the witness.)

10 BY MR. ZAVIN:

11 Q. Marked as Plaintiffs' Exhibit 33 is
12 another letter from Mr. Rothenberg, this one dated
13 May 16, 2012, to Mr. Hoti and also to Mr. Steck.

14 Have you ever seen this letter?

15 A. I have not.

16 Q. Were you aware that it had been sent on
17 or around May 16?

18 A. No.

19 Q. Now, this letter purported -- or did
20 terminate the agreement between EuroVu and Intercom
21 Ventures with respect to all of the channels that --
22 all of the EuroVu channels that Intercom Poland was
23 broadcasting; is that correct?

24 MR. PARKS: I object to the form of that

1 question.

2 MR. STECK: Objection to a mischaracterization
3 that this was an effective termination of any
4 agreement.

5 MR. PARKS: And now you're again testifying in
6 relation to a document that the witness has told you
7 he's not seen.

8 BY MR. ZAVIN:

9 Q. You can answer.

10 A. You've got to repeat the question after
11 that.

12 Q. Okay. You can read this letter. But at
13 least on its face, it purports to terminate Intercom
14 Ventures and, therefore, Intercom Poland's right to
15 broadcast all of the EuroVu channels. Would you
16 agree with that?

17 MR. PARKS: I object to the form of that
18 question. That asks for legal conclusions on behalf
19 of a lay witness with regard to a document that he's
20 just testified he's not seen.

21 MR. STECK: I'll join in that objection, also,
22 to any factual conclusions that are implied.

23 BY MR. ZAVIN:

24 Q. You can answer the question.

1 A. Okay. Now repeat the question, please.

2 MR. ZAVIN: Why don't you read the question
3 back. You don't have to read the objection back.

4 And we'll assume that you're objecting to it
5 again on its rereading.

6 (WHEREUPON, the record was read by
7 the reporter.)

8 BY THE WITNESS:

9 A. I'm not an attorney. I don't know.

10 BY MR. ZAVIN:

11 Q. Okay. Were you ever told that EuroVu had
12 terminated the license with Intercom Ventures and
13 demanded that Intercom Ventures and Intercom Poland
14 cease broadcasting Intercom's -- EuroVu's channels?

15 A. No -- well, after the fact.

16 Q. Well, how long after the fact?

17 A. I have no idea.

18 Q. A day? Two days? A month?

19 A. I at multiple times had Bob calling me; I
20 never took the call. I had Tony call me; never took
21 the call until well into this. I got drug back into
22 this multiple days after this fact.

23 Q. Well, when you say "multiple days," do
24 you have any recollection of how you learned that

1 EuroVu had purported to terminate the license?

2 A. It was a day or two before I talked to
3 Bob, which was sometime in June.

4 Q. So you're saying you didn't know until
5 June that EuroVu had terminated the license?

6 A. I've never seen this document.

7 Q. I just want to ask. I'm asking you when
8 you learned that EuroVu had terminated the license?

9 A. As I've said multiple times before, I was
10 well aware that the entity had financial issues.
11 We've looked at three or four other documents very
12 similar to this. So did I hear, peripherally? Once
13 again, as I've stated numerous times in my
14 testimony, that there were financial issues and
15 there was bickering going on between Bob and Tony,
16 Bob and Nunzio about payables.

17 Specific line in the sand that says, this
18 is the date that -- that now you're in breach of
19 this agreement? No. I don't recall when I found
20 out about that, but it was significantly after the
21 fact on May 18th at midnight, supposedly when this
22 thing dropped dead. I knew nothing about it up
23 until that point. Nothing. I was not copied on
24 this letter. I've never seen it.

1 Q. Okay. And you're claiming you were never
2 told about it?

3 A. I was never told about this letter.

4 MR. ZAVIN: Okay. Let's mark this as
5 Plaintiffs' Exhibit 34.

6 (WHEREUPON, a certain document was
7 marked Plaintiffs' Deposition
8 Exhibit No. 34, for identification,
9 as of September 5, 2012.)

10 (WHEREUPON, the document was
11 tendered to the witness.)

12 BY MR. ZAVIN:

13 Q. This is a two-page e-mail, Bates stamp
14 number DB0002957 through 2958, which appears to be
15 from Mr. Hoti to you, dated May 19, 2012, on a
16 Saturday.

17 Do you recognize that e-mail?

18 A. Vaguely.

19 Q. When you say "vaguely," did you receive
20 that e-mail on May 19, 2012?

21 A. I have no idea. I might have read it on
22 Wednesday. I have no idea.

23 Q. In this e-mail, Mr. Hoti says that he
24 told Bob that you would be contacting him either

1 A. It's not in the document.

2 Q. Okay. In paragraph 28, you say that
3 litigating in New York would pose significant
4 financial and personal burdens on me. Do you see
5 that?

6 A. I do.

7 Q. Is it fair to say, Mr. Bates, that you are
8 a relatively wealthy man?

9 MR. PARKS: Object to form.

10 BY MR. ZAVIN:

11 Q. I want to know what the financial burden
12 of litigating in New York is on you?

13 A. Time away from my business, travel costs.
14 And I could tell you my -- my business is extremely
15 profitable on a daily basis, on an hourly basis. So
16 one minute away from the office costs me money,
17 including the tens of thousands of dollars this has
18 already wasted.

19 Q. But why would it be more of a financial
20 burden on you to litigate in New York than in
21 Chicago?

22 A. The -- did I not make myself clear?
23 New York is 790 miles away. There's travel
24 involved. There's logistics involved. I'm being

1 away from my family and my work for extended periods
2 of time. I've never -- never been to New York in
3 relation to this business.

4 I've been in New York two or three times
5 my entire life to present to Moody's and S&P for my
6 core business to get rated. And I went to one
7 Yankee game, one Yankee/White Sox game, the -- one
8 of the last series at the old Yankee stadium. Flew
9 into Teterboro, flew out. That's my extent of my
10 time in New York. So I don't understand how this
11 makes sense to have me show up in New York for this
12 case, whatsoever.

13 Q. So it would be easier for you to litigate
14 this in Chicago?

15 A. I don't belong in this case to begin
16 with.

17 Q. Well, you understand that the only thing
18 this motion does is that -- it doesn't get you out
19 of this case. The case can be refiled against you
20 in Chicago. Do you understand that what you've made
21 here is a jurisdictional motion?

22 MR. PARKS: I object to the form of the
23 question.

24 MR. STECK: I object to the form of the

1 question.

2 BY MR. ZAVIN:

3 Q. Do you understand what you have -- what
4 this motion entails?

5 MR. STECK: I object to you instructing him --

6 MR. PARKS: I object to form.

7 MR. STECK: -- on what the law is and --

8 BY MR. ZAVIN:

9 Q. Do you understand what the thrust of this
10 motion is that you've made?

11 A. I do.

12 Q. And which is?

13 THE WITNESS: Do you want me to answer the
14 question?

15 MR. PARKS: Yes, you can.

16 BY THE WITNESS:

17 A. I don't belong in the case personally,
18 and it doesn't -- and if, and only if, that were to
19 be the case where I did belong, let's put the
20 jurisdiction -- I have nothing to do with New York.
21 As I said, I've been there two or three times my
22 entire life; have never traveled -- traveled there
23 in the course of this business; and it wouldn't make
24 sense.

1 So I think it's a two-pronged motion,
2 from my perspective. I don't belong in this case
3 personally, as I did not have operational control
4 and/or involvement on a day-to-day basis and/or
5 directing people to do things alleged in this
6 Complaint. Second of all, I haven't been to
7 New York in connection to this; and it doesn't make
8 sense.

9 BY MR. ZAVIN:

10 Q. The partner in the operating agreement, I
11 think you testified before -- and I'm not trying
12 to -- this isn't a memory test. You can look back
13 at it -- I think one of your joint venture partners
14 is Intercom Ventures Poland. Was that the partner
15 in the operating agreement?

16 MR. STECK: I object to the question. There
17 was no reference or foundation.

18 MR. ZAVIN: Well, I'm not trying to trick him.

19 BY MR. ZAVIN:

20 Q. I'm saying that you can look back at the
21 document.

22 A. The operating agreement for Intercom
23 Poland?

24 Q. For Intercom Poland.

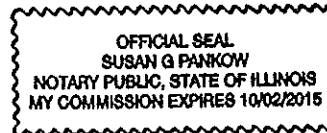
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SPANSKI ENTERPRISES, INC.)
and EUROVU, S.A.,)
Plaintiffs,) Case No.
vs.) 12 CV 4175 (WHP)
INTERCOM VENTURES, LLC,) ECF CASE
INTERCOM POLAND, LLC, TONY)
HOTI AND DYLAN BATES,)
Defendants.)

I hereby certify that I have read the
foregoing transcript of my deposition given at the
time and place aforesaid, consisting of Pages 1 to
184, inclusive, and I do again subscribe and make
oath that the same is a true, correct and complete
transcript of my deposition so given as aforesaid,
and includes changes, if any, so made by me.

DYLAN PAUL BATES

SUBSCRIBED AND SWORN TO
before me this 18th day
of September, A.D. 2012.



Notary Public

Susan G. Pankow

DEPOSITION ERRATA SHEET

Assignment No. 8148

Case Caption: SPANSKI ENTERPRISES, INC., et al., v.
INTERCOM VENTURES, LLC, et al.

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

Signed on the 18th day of

September, 2012.



DYLAN PAUL BATES